

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

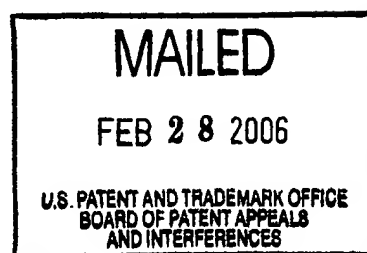
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SYAM PRASAD ARIBINDI, TEJASKUMAR R. PATEL,
and THOMAS DUNCAN

Appeal No. 2005-2017
Application No. 09/663,453

ON BRIEF



Before DIXON, BLANKENSHIP, and NAPPI, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-12, which are all the claims in the application.

We reverse.

BACKGROUND

The invention relates to digital cellular mobile telecommunication networks and, in particular, to the provision of a feature in a mobile wireless station set that enables the high speed transmission of data over the wireless communication link with the mobile wireless station set, using the dedicated control channel for data transfer. Claim 7 is reproduced below.

7. A method for providing a subscriber's mobile wireless station set with high speed data transmission capability by using the dedicated control channel of a radio link that interconnects said subscriber's mobile wireless station set with a digital cellular mobile telecommunication network, comprising the steps of:

storing in a memory, in response to a subscriber at said subscriber's mobile wireless station set requesting a data communication service, data generated by terminal equipment at said subscriber's mobile wireless station set;

segmenting said data in at least one core unit, each core unit exclusively comprising a payload of predetermined size;

selecting, in response to the existence of a presently active radio link, comprising a dedicated traffic channel presently in use by said subscriber's mobile wireless station set and an associated dedicated control channel, for selecting [sic]¹ said associated dedicated control channel of said presently active radio link to transmit said data to said digital cellular mobile telecommunication network; and

packaging said at least one core unit into a radio link protocol to transmit said data to said digital cellular mobile telecommunication network via said dedicated control channel of said presently active radio link.

¹ The recitation of "for selecting" should be deleted from the claim, as it appears to represent an error introduced into the claim by applicants' amendment filed January 20, 2004.

The examiner relies on the following reference:

Kim et al. (Kim)

WO 99/41853

Aug. 19, 1999

Claims 1-12 stand rejected under 35 U.S.C. § 102 as being anticipated by Kim.

We refer to the Final Rejection (mailed Feb. 5, 2004) and the Examiner's Answer (mailed Jul. 14, 2004) for a statement of the examiner's position and to the Brief (filed Apr. 30, 2004) and the Reply Brief (filed Sep. 15, 2004) for appellants' position with respect to the claims which stand rejected.

OPINION

Instant claim 7 requires, inter alia, selecting, in response to the existence of a presently active radio link, which comprises a dedicated traffic channel presently in use by the subscriber's mobile wireless station set and an associated dedicated control channel, the associated dedicated control channel of the presently active radio link to transmit "said data" to the digital cellular mobile telecommunication network. The antecedent for "said data" appears in the step of "storing in a memory" data generated by terminal equipment at the subscriber's mobile wireless station set.

Appellants contend that the rejection of the instant claims as anticipated by Kim is in error. The examiner submits that appellants' main argument is that the reference does not teach a method that enables the Kim communication system to use the dedicated control channel for transmitting user data when there exists a presently active radio link. The examiner posits, however, that Kim teaches a method where a control

channel is assigned to mobile stations using the packet data service, and the dedicated control channel may be used together with the voice traffic channel for high quality service, referring to page 12, lines 8 through 18 of the reference. In the examiner's view, the control channel is assigned to "mobile stations," and not to any one particular mobile station. As such, the control channel is also assigned to the mobile station that is used, and may be used together with the voice traffic channel for high quality service. (Answer at 4-5.)

Kim at page 12, lines 8 through 18 discloses that the mobile communication system may have an idle mode, a voice mode, a packet reservation mode, and a mode comprised of a combination of the named modes. The dedicated control channel is preferentially used for a call providing a service for the packet reservation mode (using the packet traffic channel). In that case, the dedicated control channel is allocated to the mobile stations using the packet data service. In exceptional circumstances, the dedicated control channel "may be used together with" the voice traffic channel for the "high quality voice service." In that case, the dedicated control channel can be shared by several mobile stations, instead of being exclusively used by a particular mobile station.

Kim at pages 10 through 12 teaches that, in the mobile communication system, the user channels in the (forward) link for transmitting a signal from the base station to the mobile station include a dedicated control channel, a voice traffic channel, and a packet traffic channel. In the (reverse) link for transmitting a signal from the mobile

station to the base station, the user channels include a pilot channel, a dedicated control channel, a voice traffic channel, and a packet traffic channel. According to Table 1, the "High Speed Packet Data Service" utilizes the pilot channel, packet traffic channel, and the dedicated control channel in both forward and reverse links. The "Voice Service" utilizes the pilot channel and the voice traffic channel in both directions. The "High Quality Voice Service," however, includes the dedicated control channel in addition to the pilot and voice traffic channels.

In our understanding of the reference, Kim teaches that the high quality voice service may use the dedicated control channel for gains in bandwidth over that provided by the voice traffic channel alone. Instant claim 7 requires, however, selecting the associated dedicated control channel to transmit the data generated by terminal equipment at the subscriber's mobile wireless set (e.g., packet data), rather than voice data. Kim's instance of disclosing that the dedicated control channel may be used for transmitting data when associated with a dedicated traffic channel presently in use is limited to use of the voice traffic channel and the dedicated control channel.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). We agree with appellants that the reference does not support a finding of anticipation with respect to the requirements of instant claim 7. The other independent claim (claim 1) contains substantially the same limitations that we

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find fatal to the rejection applied against claim 7. We therefore cannot sustain the rejection of claims 1-12 under 35 U.S.C. § 102 as being anticipated by Kim.

CONCLUSION

The rejection of claims 1-12 under 35 U.S.C. § 102 as being anticipated by Kim is reversed.

REVERSED

John L. ...

JOSÉPH L. DIXON
Administrative Patent Judge

Howard B. Blankenship
HOWARD B. BLANKENSHIP

HOWARD B. BLANKENSHIP
Administrative Patent Judge


ROBERT E. M.

ROBERT E. NAPPI
Administrative Patent Judge

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